

134.580 Refund of taxes, other than ad valorem and unconstitutional taxes.

- (1) As used in this section, unless the context requires otherwise:
 - (a) "Agency" means the agency of state government which administers the tax to be refunded or credited.
 - (b) "Overpayment" or "payment where no tax was due" means the tax liability under the terms of the applicable statute without reference to the constitutionality of the statute.
- (2) When money has been paid into the State Treasury in payment of any state taxes, except ad valorem taxes, whether payment was made voluntarily or involuntarily, the appropriate agency shall authorize refunds or credits, to the person who paid the tax, or to his heirs, personal representatives or assigns, of any overpayment of tax and any payment where no tax was due. When a bona fide controversy exists between the agency and the taxpayer as to the liability of the taxpayer for the payment of tax claimed to be due by the agency, the taxpayer may pay the amount claimed by the agency to be due, and if an appeal is taken by the taxpayer from the ruling of the agency within the time provided by KRS 131.340 and it is finally adjudged that the taxpayer was not liable for the payment of the tax or any part thereof, the agency shall authorize the refund or credit as the Kentucky Board of Tax Appeals or courts may direct.
- (3) Refunds or credits shall be authorized with interest as provided in KRS 131.183. The refunds authorized by this section shall be made in the same manner as other claims on the State Treasury are paid. They shall not be charged against any appropriation, but shall be deducted from tax receipts for the current fiscal year.
- (4) Nothing in this section shall be construed to authorize the agency to make or cause to be made any refund except within four (4) years of the date prescribed by law for the filing of a return including any extension of time for filing the return, or the date the money was paid into the State Treasury, whichever is the later, except in any case where the assessment period has been extended by written agreement between the taxpayer and the cabinet, the limitation contained in this subsection shall be extended accordingly. Nothing in this section shall be construed as requiring the agency to authorize any refund or credit to a taxpayer without demand from the taxpayer, if in the opinion of the agency the cost to the state of authorizing the refund or credit would be greater than the amount that should be refunded or credited.
- (5) This section shall not apply to any case in which the statute may be held unconstitutional, either in whole or in part.
- (6) In cases in which a statute has been held unconstitutional, taxes paid thereunder may be refunded to the extent provided by KRS 134.590, and by the statute held unconstitutional.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 344, sec. 1, effective July 15, 1996. -- Amended 1990 Ky. Acts ch. 177, sec. 1, effective July 13, 1990; and ch. 423, sec. 7, effective July 13, 1990. -- Amended 1982 Ky. Acts ch. 452, sec. 9, effective July 1, 1982. -- Amended 1976 Ky. Acts ch. 155, sec. 1. -- Amended 1970 Ky. Acts ch. 216, sec. 2.

-- Amended 1966 Ky. Acts ch. 187, Part I, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4114h-7.

Legislative Research Commission Note (9/6/90). This note replaces an earlier note dated 7/13/90. This section was amended by two 1990 Acts. Where those Acts are not in conflict, they have been compiled together. Where a conflict exists, the Act which was last enacted by the General Assembly prevails, pursuant to KRS 446.250.